

CHAPTER 6 DECLARATORY ORDERS

The department of natural resources hereby adopts the declaratory orders segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code, with the following amendments:

561—6.1(17A) Petition for declaratory order. In lieu of the words “(designate agency)”, insert “department of natural resources”. In lieu of the words “(designate office)”, insert “director’s office, department of natural resources”. In lieu of the words “(AGENCY NAME)”, the heading of the petition should read:

BEFORE THE DEPARTMENT OF NATURAL RESOURCES

561—6.2(17A) Notice of petition. In lieu of “___ days (15 or less)”, insert “15 days”. In lieu of the words “(designate agency)”, insert “department of natural resources”.

561—6.3(17A) Intervention.

6.3(1) In lieu of “___ days”, insert “20 days”.

6.3(2) In lieu of the words “(designate agency)”, insert “department of natural resources”.

6.3(3) In lieu of the words “(designate office)”, insert “director’s office, department of natural resources”. In lieu of the words “(designate agency)”, insert “department”. In lieu of the words “(AGENCY NAME)”, the heading of the petition should read:

BEFORE THE DEPARTMENT OF NATURAL RESOURCES

561—6.4(17A) Briefs. In lieu of the words “(designate agency)”, insert “department”.

561—6.5(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “Bureau Chief, Compliance and Enforcement Bureau, Environmental Protection Division, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319”.

561—6.6(17A) Service and filing of petitions and other papers.

6.6(2) Filing—when required. In lieu of the words “(specify office and address)”, insert “Director’s Office, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034”. In lieu of the words “(agency name)”, insert “department of natural resources”.

561—6.7(17A) Consideration. In lieu of the words “(designate agency)”, insert “department of natural resources”. Add the following new paragraphs:

An order, including a refusal to issue an order, issued by the director is final unless the issue is within the rule-making authority of one of the department’s commissions in which case the order or refusal is final unless appealed to the commission within ten days of receipt by the petitioner or reviewed by the commission on its own motion. On appeal or review, the commission may:

1. Approve the director’s ruling, in which case the order becomes the final declaratory order of the department, or
2. Reverse or modify the declaratory order, in which case the modified order becomes the final declaratory order of the department, or

3. Request additional information from the petitioner, or
4. Decline to issue an order, as specified in rule 6.5(17A).

The commission's order or refusal to issue an order shall be made within a reasonable time and shall be sent by certified mail to the petitioner upon issuance.

561—6.8(17A) Action on petition. In lieu of the words “(designate agency head)”, insert “director”.

561—6.9(17A) Refusal to issue order. In lieu of the words “(designate agency)”, insert “department of natural resources”.

561—6.12(17A) Effect of a declaratory order. In lieu of the words “(designate agency)”, insert “department of natural resources”.

These rules are intended to implement Iowa Code section 17A.9 as amended by 1998 Iowa Acts, chapter 1202.

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